

CLOSED,PRO SE

U.S. District Court
Northern District of New York – Main Office (Syracuse) [LIVE – Version 5.1.1]
(Utica)
CIVIL DOCKET FOR CASE #: 6:12-cv-00187-TJM-DEP

Warren v. Astrue et al
Assigned to: Senior Judge Thomas J. McAvoy
Referred to: Magistrate Judge David E. Peebles
Demand: \$130,000
Cause: 05:552 Freedom of Information Act

Date Filed: 01/26/2012
Date Terminated: 06/11/2013
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff**Gregory Warren**

represented by **Gregory Warren**
Daughter's of Jacob
1160 Teller Avenue
Bronx, NY 10456
917-515-2391 (cell)
Fax: 718-293-1500, x546 (
PRO SE

V.

Defendant

Michael J. Astrue
Comissioner of Social Security
Administration, in his individual and
official capacities

represented by **William F. Larkin**
Office of the United States Attorney –
Syracuse
P.O. Box 7198
100 South Clinton Street
Syracuse, NY 13261-7198
315-448-0672
Fax: 315-448-0646
Email: william.larkin@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Sheryll Ziporkin
Associate Commissioner of Social
Security Administration, in her individual
and official capacities

represented by **William F. Larkin**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Social Security Administration**

represented by **William F. Larkin**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/26/2012	<u>1</u>	COMPLAINT against Michael J. Astrue, Social Security Administration, Sheryll Ziporkin filed by Gregory Warren. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Civil Cover Sheet, # <u>3</u> Envelope.)(ptm) (Entered: 01/26/2012)
01/26/2012	<u>2</u>	MOTION for Leave to Proceed in forma pauperis filed by Gregory Warren. Motions referred to David E. Peebles. (ptm) (Entered: 01/26/2012)
01/26/2012	<u>3</u>	INMATE AUTHORIZATION FORM by Gregory Warren. (ptm) (Entered: 01/26/2012)

03/23/2012	<u>4</u>	DECISION & ORDER: granting <u>2</u> Motion for Leave to Proceed in forma pauperis as to Gregory Warren. The Clerk shall issue summonses and forward them, along with copies of the complaint, to the United States Marshal for service upon the defendants. The Clerk shall forward a copy of the summons and complaint by mail to the Office of the United States Attorney, together with a copy of this Decision & Order. The Clerk will provide the superintendent of the facility with a copy of plaintiff's authorization form, and notify the official that this action has been filed and that plaintiff is required to pay the entire statutory filing fee of \$350.00 pursuant to 28 USC section 1915. The Clerk shall provide a copy of plaintiff's authorization form to the financial deputy of the Clerk's Office. Signed by Magistrate Judge David E. Peebles on 3/23/2012. {Copy served upon pro se plaintiff by regular mail} (jmb) (Entered: 03/23/2012)
03/23/2012	<u>5</u>	Summons Issued as to Michael J. Astrue, Social Security Administration and Sheryll Ziporkin, through General Counsel. (Attachments: # <u>1</u> Summons issued for the United States Attorney General, # <u>2</u> Summons issued for the United States Attorney) (jmb) (Entered: 03/23/2012)
03/23/2012	<u>6</u>	Letter to the Superintendent of Mohawk Correctional Facility from Deputy Clerk, Joanne Bleskoski. (Attachments: # <u>1</u> Copy of Inmate Authorization) (jmb) (Entered: 03/23/2012)
03/23/2012	<u>7</u>	Social Security Assignment Form & General Order 18: issued in this action. {Copy served upon pro se plaintiff by regular mail, additional copies provided to the US Marshal for service upon the defendant with the Summons and Complaint} (jmb) (Entered: 03/26/2012)
03/23/2012		Copies of summonses forwarded to the United States Marshal for service upon the defendants, along with copies of the complaint, USM 285 forms, the # <u>4</u> Order and # <u>7</u> Social Security Assignment Form and General Order 18. – Note: the clerk served a copy of the # <u>4</u> Order upon the U.S. Attorney, with the Summons, Complaint and Notice, in compliance with the Court's directive. (jmb) (Entered: 03/26/2012)
03/29/2012	<u>9</u>	LETTER ON INMATE ACCOUNT STATUS: filed by Deborah Dunn as an employee of Mohawk Correctional Facility as to Gregory Warren, regarding the court's # <u>6</u> Letter, advising the court the the inmates account is currently insufficient to pay the full filing fee of \$350.00, however she has encumbered it and will forward the funds when fully collected. (jmb) (Entered: 04/03/2012)
04/02/2012	<u>8</u>	PROCESS RECEIPT AND RETURN Returned by the United States Marshal Service on behalf of Gregory Warren, the Summons, Complaint and Notice with GO 18 served upon the United States Attorney on behalf of the Commissioner of Social Security on 3/30/2012 by personal service. (jmb) (Entered: 04/02/2012)
04/12/2012	<u>10</u>	PROCESS RECEIPT AND RETURN: Returned by the United States Marshal Service on behalf of Gregory Warren. The Summons, Complaint and Notice with GO 18 served upon the Office of General Counsel on 3/30/2012 via certified mail. (mae) (Entered: 04/12/2012)
04/12/2012	<u>11</u>	PROCESS RECEIPT AND RETURN: Returned by the United States Marshal Service on behalf of Gregory Warren. The Summons, Complaint and Notice with GO 18 served upon the United States Attorney General on 4/5/2012 via certified mail. (mae) (Entered: 04/12/2012)
04/12/2012	<u>12</u>	BILL OF COSTS: Filed but the United States Marshals Service in the amount of \$71.00 for service of process in this action. (mae) (Entered: 04/12/2012)
04/12/2012		TEXT ORDER to Clarify the <u>4</u> Decision and Order issued by Magistrate Judge Peebles on 3/23/12. This case is regarding plaintiff's claims that the defendants violated the Freedom of Information Act ("FOIA"). It is not an action where plaintiff is appealing from a final administrative decision regarding social security benefits. Therefore, the court did not require a General Order 18 to be issued in this matter and did not include such language in the Decision and Order issued on 3/23/12. However, due to a clerical error, summonses were incorrectly issued by the clerk upon the defendants indicating that their time to respond to the complaint is w/in 100 days after service is completed. A General Order 18 was also issued by the clerk in error. Defendants are advised that the requirements set forth in General

		Order 18 do not apply to this case and that their time to respond to the complaint is 60 days after service is completed. The court will issue a Mandatory Pretrial Discovery and Scheduling Order once an answer is filed. Authorized by Magistrate Judge David E. Peebles on 4/12/12. (Served copy of this text order upon the U.S. Attorney's Office in Syracuse, NY & the Office of General Counsel, Social Security Administration electronically, and the plaintiff by regular mail). (sal,) (Entered: 04/12/2012)
04/23/2012	<u>13</u>	Mail Returned as Undeliverable: Re: the Text Order dated 4/12/2012, sent to Gregory Warren at the last known address information of Mohawk Correctional Facility, P.O. Box 8451, Rome, New York 13440. Envelope marked "Return to Sender – Notify Sender of New Address for Mohawk Correctional Facility, 1310 Noyes Street, Utica, New York 13502–4430. (jmb) (Entered: 04/25/2012)
04/25/2012		DOCKET ANNOTATION: The Clerk confirmed that the plaintiff is still housed at the Mohawk Correctional Facility and has re-served the Text Order dated 4/12/2012. The facility advised that the post office has recently processed some of the facility mail wrong and it has now been corrected. (jmb) (Entered: 04/25/2012)
05/29/2012	<u>14</u>	Mail Returned as Undeliverable. re: File Received, Filing Fee Received sent to Gregory Warren Address sent to Mohawk Correcitonal Facility. Envelope reads " paroled, 5/10/12, Return to Sender" (nas,) (Entered: 05/29/2012)
06/01/2012	<u>15</u>	Letter Motion from William F. Larkin for Social Security Administration requesting 30 extension to answer to plaintiff's complaint submitted to Judge David E. Peebles . (Larkin, William) (Entered: 06/01/2012)
06/01/2012	<u>16</u>	CERTIFICATE OF SERVICE by Social Security Administration re <u>15</u> Letter Motion from William F. Larkin for Social Security Administration requesting 30 extension to answer to plaintiff's complaint submitted to Judge David E. Peebles (Larkin, William) (Entered: 06/01/2012)
06/01/2012		TEXT ORDER granting <u>15</u> Letter Request, Social Security Administration answer due 7/9/2012. Authorized by Magistrate Judge David E. Peebles on 6/1/12. (cam,) (Entered: 06/01/2012)
06/07/2012	<u>18</u>	NOTICE OF CHANGE OF ADDRESS: by Gregory Warren. Effective Date 6/1/2012. Old Address: Mohawk Correctional Facility, New Address is Daughter's of Jacob, 1160 Teller Avenue, Bronx, New York 10456. Clerk notes that the documents referenced in docket entries <u>13</u> , <u>14</u> and <u>17</u> have been reserved upon plaintiff at the new address by regular mail. (jmb) (Entered: 06/14/2012)
06/11/2012	<u>17</u>	Mail Returned as Undeliverable re: Text Order on Letter Request entered on 6/1/2012 sent to Gregory Warren at the last known address Mohawk Correctional Facility, P.O. Box 8451, Rome, New York 13440. Envelope marked "Return to Sender – No longer at this address, address unknown, paroled 5/10/2012." (sal,) (Entered: 06/11/2012)
07/02/2012	<u>19</u>	ANSWER to <u>1</u> Complaint by Michael J. Astrue, Social Security Administration, Sheryll Ziporkin.(Larkin, William) (Entered: 07/02/2012)
07/02/2012	<u>20</u>	CERTIFICATE OF SERVICE by Michael J. Astrue, Social Security Administration, Sheryll Ziporkin re <u>19</u> Answer to Complaint (Larkin, William) (Entered: 07/02/2012)
07/16/2012		TEXT NOTICE of Hearing: An Initial Conference is set for 8/9/2012 at 2:30 PM before Magistrate Judge David E. Peebles to discuss a schedule for this case. Defendants' counsel is directed to file a proposed Civil Case Management Plan on or before 8/1/2012. This conference will be held by telephone and defendants' counsel is directed to initiate the call to Chambers. Plaintiff is directed to provide the court and defendants' counsel, in writing, by 8/2/2012 a phone number for where he can be reached for this conference call to take place. Plaintiff must also confirm his current address in such notice, as well. (Served plaintiff by regular mail). (sal,) (Entered: 07/16/2012)
08/01/2012	<u>21</u>	CIVIL CASE MANAGEMENT PLAN by Michael J. Astrue, Social Security Administration, Sheryll Ziporkin. (Attachments: # <u>1</u> certificate of service)(Larkin, William) (Main Document 21 replaced on 8/2/2012 w/a version that is unable to be

		modified.) (amt) (Entered: 08/01/2012)
08/09/2012		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Initial Pretrial Telephone Conference held on 8/9/2012. Case involves a FOIA claim by plaintiff who advises that he still has not received the information requested, which is needed to provide to his insurance company. The Gov't. advises that they do not have proof that the plaintiff was Mr. Richardson's son. Both parties will work on getting the information needed in order to possibly resolve this action. Next telephone conference is set for 9/12/12 at 3:30 PM to discuss the status of this case. Defendants' counsel is directed to initiate the call to Chambers. (Served plaintiff by regular mail). (sal,) (Entered: 08/09/2012)
08/09/2012		Set/Reset Hearings: Telephone Conference set for 9/12/2012 at 3:30 PM before Magistrate Judge David E. Peebles. Defendants' counsel is directed to initiate the call to Chambers. (Served plaintiff by regular mail). (sal,) (Entered: 08/09/2012)
08/15/2012	<u>22</u>	PRO SE HANDBOOK, LOCAL RULES, and NOTICE issued to plaintiff Gregory Warren. (sal,) (Entered: 08/15/2012)
09/12/2012		TEXT Minute Entry for proceedings held before Magistrate Judge David E. Peebles: Telephone Conference held on 9/12/2012. Plaintiff indicates that the phone number and address for him on the docket sheet are correct. Defendant's counsel has recently provided the information to the plaintiff that he was seeking, however, plaintiff would still like to pursue this action to recover damages. Defendant's counsel intends to file a dispositive motion. Motion filing deadline is set for 12/31/12. No new conference is set before Magistrate Judge Peebles. APP: Gregory Warren, pro se, William Larkin, AUSA. (sal,) (Entered: 09/12/2012)
09/12/2012		TEXT SCHEDULING ORDER: Motions to be filed by 12/31/2012. Authorized by Magistrate Judge David E. Peebles on 9/12/12. (sal,) (Entered: 09/12/2012)
09/12/2012		Served text minute entry and text order on 9/12/12 to plaintiff by regular mail. (sal,) (Entered: 09/12/2012)
12/10/2012	<u>23</u>	Letter Motion from William F. Larkin for Social Security Administration requesting 30 day extension for filing dispositive motions submitted to Judge David E. Peebles . (Attachments: # <u>1</u> certificate of service)(Larkin, William) (Entered: 12/10/2012)
12/11/2012		TEXT ORDER granting <u>23</u> Letter Request. Motion filing deadline extended to 1/31/13. Authorized by Magistrate Judge David E. Peebles on 12/11/12. (cam,) (Entered: 12/11/2012)
01/29/2013	<u>24</u>	Letter Motion from William F. Larkin for Social Security Administration requesting a 30 day extension for filing dispositive motions submitted to Judge David E. Peebles . (Attachments: # <u>1</u> certificate of service)(Larkin, William) (Entered: 01/29/2013)
01/30/2013		TEXT ORDER granting <u>24</u> Letter Request to extend the dispositive motion filing deadline. Motions to be filed deadline is extended until 2/28/2013. Authorized by Magistrate Judge David E. Peebles on 1/30/13. (Served plaintiff by regular mail). (sal,) (Entered: 01/30/2013)
02/13/2013	<u>25</u>	MOTION to Dismiss Motion Hearing set for 3/22/2013 10:00 AM in Binghamton before Senior Judge Thomas J. McAvoy Response to Motion due by 3/5/2013 Reply to Response to Motion due by 3/11/2013. filed by Social Security Administration. (Attachments: # <u>1</u> Declaration of William F. Larkin, # <u>2</u> Memorandum of Law, # <u>3</u> certificate of service) (Larkin, William) (Entered: 02/13/2013)
03/15/2013		COURT'S TEXT NOTICE to parties advising that the pending motion for 3/22/13 is on submit basis, no appearances necessary. [Served by mail.] (sfp,) (Entered: 03/15/2013)
03/21/2013	<u>26</u>	Construed as a RESPONSE in Opposition <u>25</u> MOTION to Dismiss filed by Gregory Warren. {Pltf notes that document is a notice of motion to deny motion to dismiss and grant relief sought in complaint} (see) (Entered: 03/22/2013)

03/22/2013	<u>27</u>	Minute Entry: MOTION CALENDAR held 3/22/2013 bef Sr. District Judge Thomas J. McAvoy in Binghamton, NY: APP/CR/CRD: None. Defts' <u>25</u> MOTION to Dismiss – TAKEN ON SUBMIT. (cml) (Entered: 03/25/2013)
06/10/2013	<u>28</u>	DECISION AND ORDER: for the reasons stated herein, it is ORDERED, that Defendant's <u>25</u> Motion to Dismiss is GRANTED, all claims are DISMISSED, and the Clerk of the Court is instructed to close the file in this matter. Signed by Senior Judge Thomas J. McAvoy on 6/10/2013. (copy of this Decision and Order sent via regular mail and certified mail, return receipt requested, to pro se party/non-CM/ECF recipients) (sg) (Entered: 06/11/2013)
06/11/2013	<u>29</u>	JUDGMENT IN A CIVIL CASE: it is ORDERED AND ADJUDGED, that the Defendant's <u>25</u> Motion to Dismiss is GRANTED; and it is further ORDERED AND ADJUDGED, that all claims are DISMISSED and the Clerk of the Court is instructed to close the file in this matter in accordance with the Decision and Order of the Honorable Thomas J. McAvoy, Senior U.S. District Judge, dated 6/10/2013. (copy of Judgment sent via regular mail and certified mail, return receipt requested, to pro se party/non-CM/ECF recipients) (sg) (Entered: 06/11/2013)